

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

ALESSANDRO MASI,

Plaintiff,

- against -

NETEASE INFORMATION TECHNOLOGY  
CORPORATION

Defendant.

Docket No. 1:17-cv-100059

JURY TRIAL DEMANDED

**COMPLAINT**

Plaintiff Alessandro Masi (“Masi” or “Plaintiff”) by and through his undersigned counsel, as and for his Complaint against Defendant NetEase Information Technology Corporation (“NetEase” or “Defendant”) hereby alleges as follows:

**NATURE OF THE ACTION**

1. This is an action for copyright infringement under Section 501 of the Copyright Act and for the removal and/or alteration of copyright management information under Section 1202(b) of the Digital Millennium Copyright Act. This action arises out of Defendant’s unauthorized reproduction and public display of ten copyrighted photographs of exotic prisons, owned and registered by Masi, a professional photographer. Accordingly, Masi seeks monetary relief under the Copyright Act of the United States, as amended, 17 U.S.C. § 101 *et seq.*

**JURISDICTION AND VENUE**

2. This claim arises under the Copyright Act, 17 U.S.C. § 101 *et seq.*, and this Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. §§ 1331 and 1338(a).

3. This Court has personal jurisdiction over Defendant because Defendant transacts business in New York.

4. Venue is proper in this District pursuant to 28 U.S.C. § 1391(b).

### **PARTIES**

5. Masi is a professional photographer in the business of licensing his photographs to online and print media for a fee having a usual place of business at Strada Cantone Capre 42 Cossila San Grato, Biella 13900 Italy.

6. Upon information and belief, NetEase is a domestic corporation organized and existing under the laws of the State of California, with a place of business at 2000 Sierra Pint Parkway, Suite 800, Brisbane, California 940005. At all times material hereto, NetEase has owned and operated a website at the URL: www.Travel.163.com (the “Website”).

### **STATEMENT OF FACTS**

#### **A. Background and Plaintiff’s Ownership of the Photographs**

7. Masi photographed exotic prisons (the “Photographs”). True and correct copies of the photographs are attached hereto as Exhibit A.

8. Masi is the author of the Photographs and has at all times been the sole owner of all right, title and interest in and to the Photographs, including the copyright thereto.

9. The Photographs was registered with United States Copyright Office and was given Copyright Registration Number VA 1-996-957.

#### **B. Defendant’s Infringing Activities**

10. NetEase ran an article on the Website entitled *This is obviously the most luxurious prison in the history of the star hotel (full text)*. See [http://travel.163.com/15/0210/14/AI3MF1T800063KE8\\_all.html](http://travel.163.com/15/0210/14/AI3MF1T800063KE8_all.html). The article prominently

featured the Photographs. Screenshots of the article with the Photographs are attached hereto as Exhibit B.

11. NetEase did not license the Photographs from Plaintiff for its article, nor did NetEase have Plaintiff's permission or consent to publish the Photographs on its Website.

**FIRST CLAIM FOR RELIEF**  
**(COPYRIGHT INFRINGEMENT AGAINST NETEASE)**  
**(17 U.S.C. §§ 106, 501)**

12. Plaintiff incorporates by reference each and every allegation contained in Paragraphs 1-11 above.

13. NetEase infringed Plaintiff's copyright in the Photographs by reproducing and publicly displaying the Photographs on the Website. NetEase is not, and has never been, licensed or otherwise authorized to reproduce, publicly display, distribute and/or use the Photographs.

14. The acts of Defendant complained of herein constitute infringement of Plaintiff's copyright and exclusive rights under copyright in violation of Sections 106 and 501 of the Copyright Act, 17 U.S.C. §§ 106 and 501.

15. Upon information and belief, the foregoing acts of infringement by NetEase have been willful, intentional, and purposeful, in disregard of and indifference to Plaintiff's rights.

16. As a direct and proximate cause of the infringement by the Defendant of Plaintiff's copyright and exclusive rights under copyright, Plaintiff is entitled to damages and Defendant's profits pursuant to 17 U.S.C. § 504(b) for the infringement.

**SECOND CLAIM FOR RELIEF**  
**INTEGRITY OF COPYRIGHT MANAGEMENT INFORMATION AGAINST**  
**NETEASE**  
**(17 U.S.C. § 1202)**

17. Plaintiff incorporates by reference each and every allegation contained in Paragraphs 1-16 above.

18. When the Photographs were published Masi's website, it contained copyright management information under 17 U.S.C. § 1202(b). See Exhibit C.

19. Upon information and belief, in its article on the Website, NetEase intentionally and knowingly removed copyright management information identifying Plaintiff as the photographer of the Photographs.

20. The conduct of NetEase violates 17 U.S.C. § 1202(b).

21. Upon information and belief, NetEase's falsification, removal and/or alteration of the aforementioned copyright management information was made without the knowledge or consent of Plaintiff.

22. Upon information and belief, the falsification, alteration and/or removal of said copyright management information was made by NetEase intentionally, knowingly and with the intent to induce, enable, facilitate, or conceal their infringement of Plaintiff's copyrights in the Photographs. NetEase also knew, or should have known, that such falsification, alteration and/or removal of said copyright management information would induce, enable, facilitate, or conceal their infringement of Plaintiff's copyrights in the Photographs.

23. As a result of the wrongful conduct of NetEase as alleged herein, Plaintiff is entitled to recover from NetEase the damages, that he sustained and will sustain, and any gains, profits and advantages obtained by NetEase because of their violations of 17 U.S.C. § 1202, including attorney's fees and costs.

24. Alternatively, Plaintiff may elect to recover from NetEase statutory damages pursuant to 17 U.S.C. § 1203(c) (3) in a sum of at least \$2,500 up to \$25,000 for each violation of 17 U.S.C. § 1202.

**PRAYER FOR RELIEF**

WHEREFORE, Plaintiff respectfully requests judgment as follows:

1. That Defendant NetEase be adjudged to have infringed upon Plaintiff's copyrights in the Photographs in violation of 17 U.S.C §§ 106 and 501;
2. The Defendant Claire be adjudged to have falsified, removed and/or altered copyright management information in violation of 17 U.S.C. § 1202.
3. That, with regard to the First Claim for Relief, Plaintiff be awarded Plaintiff's actual damages and Defendant's profits, gains or advantages of any kind attributable to Defendant's infringement of Plaintiff's Photographs;
4. That, with regard to the Second Claim for Relief, Plaintiff be awarded either:
  - a) Plaintiff's actual damages and Defendant's profits, gains or advantages of any kind attributable to Defendant's falsification, removal and/or alteration of copyright management information; or b) alternatively, statutory damages of at least \$2,500 and up to \$ 25,000 for each instance of false copyright management information and/or removal or alteration of copyright management information committed by Defendant pursuant to 17 U.S.C. § 1203(c);
5. That Defendant be required to account for all profits, income, receipts, or other benefits derived by Defendant as a result of its unlawful conduct;
6. That Plaintiff be awarded her costs, expenses and attorneys' fees pursuant to 17 U.S.C. § 1203(b);

7. That Plaintiff be awarded pre-judgment interest; and
8. Such other and further relief as the Court may deem just and proper.

**DEMAND FOR JURY TRIAL**

Plaintiff hereby demands a trial by jury on all issues so triable in accordance with Federal Rule of Civil Procedure 38(b).

Dated: Valley Stream, New York  
December 22, 2017

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